

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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HENRY CUEVAS,

Plaintiff,

-against-

ELIO & SONS LLC, et al.,

Defendants.  
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17 Civ. 2490 (LGS)

**OPINION AND ORDER**

LORNA G. SCHOFIELD, District Judge:

WHEREAS, on April 6, 2017, Plaintiff filed his Complaint, which alleges wage-related claims under FLSA and state law.


WHEREAS, on June 1, 2017, the parties filed a proposed settlement agreement and a letter with attachments explaining why the Court should approve the settlement as fair and reasonable. It is hereby

**ORDERED** that the settlement agreement is not approved in its current form; it is further

**ORDERED** that any amendment to the settlement agreement or new settlement agreement shall strike the “no assist” provision (paragraph 5), which purports to prohibit Plaintiff from “voluntarily tak[ing] any action to support, encourage or participate in any action which names, or may in any way damage the reputation of the Defendants.” This provision is in “strong tension with the remedial purposes of the FLSA” because, among other reasons, it “raises the specter of defendants settling FLSA claims with plaintiffs, perhaps at a premium, in order to avoid a collective action or individual lawsuits from other employees whose rights have been similarly violated.” *Cheeks v. Freeport Pancake House, Inc.*, 796 F.3d 199, 206 (2d Cir. 2015). It is further

**ORDERED** that any amendment or revised settlement agreement shall be filed by June 29, 2017. A separate order relating to attorneys' fees will issue after the filing of any such amendment or agreement.

Dated: June 19, 2017  
New York, New York



**LORNA G. SCHOFIELD**  
**UNITED STATES DISTRICT JUDGE**